

Doing
Business
In
Japan



Kitagawa

Statutory
Material
Bibliography



MATTHEW
BENDER

EXHIBIT 35

VOLUME ♦

DOING BUSINESS IN JAPAN

Statute Volume

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Current Through: 1996

RELEASE NO. 21, JUNE 1996

MATTHEW  BENDER

APPENDIX 4A

The Civil Code

(Minpō)

BOOK I

General Provisions

(Sōsoku)

Article 1. (Exercise of private rights)

1. All private rights shall conform to the principles of maintaining the public welfare.
2. The exercise of rights and performance of duties shall be carried out in accordance with the principles of good faith and trust.
3. No abuse of rights shall be permitted.

Article 1-2. (Construction)

This Code shall be construed in a manner consistent with respect for the dignity of individuals and the essential equality of the sexes.

CHAPTER I

Persons

(Hito)

SECTION I

Enjoyment of Private Rights

(Shiken no Kyōyū)

Article 1-3. (Commencement of capacity)

The enjoyment of private rights shall commence at birth.

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App.4A-104

Article 421. (Ibid.—other value)

The provisions of the preceding article shall apply *mutatis mutandis* to the cases where the parties have agreed beforehand that something other than money shall satisfy a demand for damages.

Article 422. (Subrogation by payment of damages)

If an obligee has received by way of compensation for damages the full value of the thing or right which forms the subject of his obligation-right, the obligor shall by operation of law be subrogated into the position of the obligee with regard to such thing or right.

Article 423. (Obligee's subrogation for the protection of an obligation-right)

1. In order to protect his obligation-right, an obligee may exercise the rights belonging to the obligor; however, this shall not apply to such rights as are personal to the obligor.

2. So long as the obligation-right is not yet due, the obligee may not exercise the rights referred to in the preceding paragraph except by judicial subrogation, however, this shall not apply to an act of preservation.

Article 424. (Obligee's right of avoidance)

1. An obligee may apply to the court for the avoidance of any juristic act effected by the obligor with the knowledge that it would prejudice the obligee; however, this shall not apply where a person who has derived benefit from such act or a subsequent purchaser was, at the time of the act or of the purchase, unaware of the fact that the act would prejudice the obligee.

2. The provisions of the preceding paragraph shall not apply to a juristic act which does not have a property right for its subject.

Article 425. (Effect of avoidance)

The avoidance effected in accordance with the provisions of the preceding article shall take effect for the benefit of all the obligees.